

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LOGICAL MEDIA NETWORK INC., ,

Plaintiff,

v.

CENTERPOINT MEDIA LLC, PAUL
ROBERTS and RENE RAPP,

Defendants.

CASE NO. 13-CV-4177

**AFFIDAVIT OF PAUL ROBERTS
IN SUPPORT OF DEFENDANTS'
RESPONSE TO ORDER TO SHOW
CAUSE**

STATE OF:)
) ss:
COUNTY OF:)

PAUL ROBERTS, being duly sworn, deposes and says:

1. I am one of the defendants in this matter. I am over the age of eighteen years, and competent to testify. I testify from personal knowledge.
2. A successful Internet business requires that Internet users visit its website. In order to attract Internet traffic, Internet advertisers pay other websites to place advertisements that users can click and be redirected to the advertisers' website.
3. Because there are hundreds of thousands of advertisers and potentially millions of websites on which to place ads, affiliate networks provide a convenient intermediary between advertisers and the websites, or "affiliates", that feature their advertisements.
4. For example, the owner of a blog about sweepstakes might want to post advertising links to sweepstakes websites.
5. An affiliate network would allow the blog operator to select from a range of advertisements to post on the blog.
6. Once the blog operator, now an affiliate of the advertiser, posted the links, each time an Internet user clicked on an advertising link, the user would be transited to the advertiser's website via the affiliate network.
7. Each time the user completed an agreed action—like signing up for a service, completing a survey, or sometimes just clicking on the advertisement—the affiliate network would be paid by the advertiser.
8. The affiliate network would then compensate the affiliate.
9. The affiliate industry is highly competitive. Affiliates, advertisers, and affiliate networks rarely use exclusive contracts. Instead, each is successful depending on the

quality of service it provides to its respective customers, the Internet traffic that it drives, and the revenue it creates.

10. I am a former consultant in the Internet advertising industry. I've relied on my in-depth knowledge of Internet advertising to market my services to a variety of Internet-advertising businesses, including a variety of major affiliate networks, since 1998. As a consultant, I regularly advised affiliate networks on advertising campaigns. One component of my advice was identifying key potential advertisers and affiliates for the affiliate network to pursue. For example, if I was working on a sweepstakes promotion campaign, I would regularly review sweepstakes-related blogs and identify major bloggers. I would then use commercially-available search tools to locate the contact information of those bloggers, and then contact the bloggers to offer an affiliate network's services.

11. The identity of key bloggers and other potential affiliates—and the identity of potential advertisers—is not a secret. Generally, the top bloggers and other potential affiliates are well-known within the particular industry segment in which they operate. For example, the top real estate bloggers are known in the real estate marketing industry, and the top sweepstakes bloggers are known in the sweepstakes industry.

12. I worked for Logical Media on a non-exclusive consulting basis, accepting a flat monthly fee to develop Logical Media's advertising campaigns. Generally, I would be tasked with developing a campaign for a particular industry, and would use my industry knowledge and research expertise to identify and contact key players who might be interested in either an advertising campaign or in placing specific advertisements as an affiliate. The arrangement was verbal, and I made it clear that I was only able to work within the affiliate industry by providing advice to a number of different players.

13. But then in 2012, Logical Media was purchased by new owners.

14. The new owners were inexperienced in affiliate marketing, and asked me to agree to an exclusive contract, wherein Logical Media controlled the information I

provided and I could not work for or provide information to any other affiliate network, or anyone else in the Internet marketing industry.

15. If Logical Media has a "Client List" it was never shown to me. Instead, I identified potential advertisers and affiliates using my expertise, and would be given "daily reports" asking me to follow up with particular targets. Usually, the daily reports would include only customers I had identified for Logical Media. I did not keep daily reports and do not rely on any information gained from Logical Media at CenterPoint. Doing so would not make business sense: the Internet industry changes rapidly, and new research and constant contact with my connections is necessary to determine who is currently a viable potential affiliate or who is interested in running an advertising campaign.

16. I started CenterPoint in 2012. CenterPoint is an affiliate network that markets to a broad range of Internet advertisers and affiliates, as opposed to Logical Media's "family friendly" focus. But, because the major players in each industry segment are readily-identifiable, CenterPoint has contacted some potential advertisers and affiliates that are or were Logical Media customers. I do all the identification of potential advertisers and affiliates, and do not rely on any information I gained while consulting for Logical Media. Instead, I rely on my own knowledge of the industry, and then conduct new research to determine whether a potential affiliate drives enough Internet traffic to warrant contacting, or if an advertiser wants to use CenterPoint's services. For example, Logical Media claims that I relied on Logical Media's client list to identify ePrize as a potential advertiser. But ePrize has a massive Internet presence, and it takes no special knowledge to determine that ePrize would be a valuable customer.

17. CenterPoint obtains advertiser customers and affiliates by "prospecting" online by reviewing blogs and websites. Once a potential customer is identified, contact information for that customer can be obtained through publicly-accessible information sources like LinkedIn, or sites like SellerCrowd, which allows a user to ask other companies in the online advertising world where they get their contacts.

18. For example, CenterPoint regularly monitors the “CentsLess Deals” blog. By clicking on a banner advertisement on that blog, CenterPoint can view the URL and determine which advertising network or agency created the ad. CenterPoint can then contact that network or agency and ask which affiliate network they’re using, and how much that affiliate network pays.

19. CenterPoint sets pricing by asking affiliates what they are currently being paid by other affiliate networks. If it is financially feasible, CenterPoint will either match or beat that price. CenterPoint also competes with other affiliate networks by offering a range of services. For example, CenterPoint offers email marketing, display advertising, and search marketing. Logical Media does not provide those services.

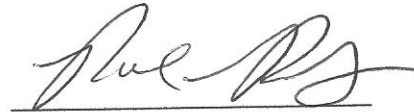
20. Logical Media has been in business since 2005. It brags on its website that it is the “online leader in family-friendly brand name marketing” and boasts of its “Top 10 Ranking in Website Magazine.”

21. Affiliate networks grow by providing consistent customer service. Before they are established within the Internet marketing industry, an affiliate network can be crippled by virtually any adverse event. If the temporary restraining order or injunction is granted, CenterPoint will have to break off relationships with some of its affiliates and advertisers. Because Logical Media has a broad market presence, many of the major advertisers and affiliates would be off-limits. At this juncture in its development, it is unlikely that CenterPoint would survive this breach of its customer service.

22. I have not relied on any of Logical Media’s confidential information to identify CenterPoint’s advertisers or affiliates.

23. I did not retain or rely on Logical Media’s pricing information to set CenterPoint’s payouts.

24. CenterPoint has not yet built a reputation in the affiliate community.



Paul Roberts

Subscribed to and sworn
before me this 25 day of
June, 2013.

Notary Public

